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OFFICE OF PETITIONS

In re Application of	:	
Noel Lee et al.	:	
Application No. 10/655,095	:	DECISION ON PETITION
Filed: September 3, 2003	:	UNDER 37 C.F.R. §1.137(F)
Attorney Docket Number:	:	
P1544	:	
Title: SURROUND SOUND	:	
POSITIONING TOWER SYSTEM AND	:	
METHOD	:	

This is a decision on the petition filed October 27, 2005, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication¹;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require

¹ See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at <http://www.uspto.gov/web/forms/index.html>.

additional information where there is a question whether the delay was unintentional.

Petitioner states that the present nonprovisional application is the subject of an application filed in either foreign or international applications on August 31, 2004 and September 3, 2004. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

Unfortunately, it does not appear that a Notice of Rescission of Nonpublication Request has been filed with the Office. As such, Petitioner has not rescinded the previous nonpublication request.

Accordingly, the petition under 37 C.F.R. §1.137(f) must be **DISMISSED**.

Any response must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The submission should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(f)." On renewed petition, Petitioner may wish to consider providing the required Notice of Rescission of Nonpublication Request.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

Petitioner has also submitted the issue fee. However, before this application can pass to issue, Petitioner will need to file not only the Notice of Rescission of Nonpublication Request, but also a petition under 37 C.F.R. §1.137(b) and the associated fee of \$1,500: the above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 19, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees⁵. Accordingly, the above-identified application became abandoned on January 20, 2006.

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.


4 (571) 273-8300- please note this is a central facsimile number.

5 See MPEP §710.02(e).

Additionally, it is noted that Petitioner has submitted drawings with the present petition. It is not clear why these drawings were submitted - the final rejection indicates that the drawings which were submitted on December 9, 2004 were acceptable. Furthermore, Petitioner will note that the Notice of Allowability does not indicate that corrected drawings were required. On renewed petition, Petitioner must address why these drawings were presented.

Finally, it is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay⁶. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.


Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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⁶ See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).